

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Richard W. Newman et al. Art Unit: 2873
Serial No.: 10/697,454 Examiner: Brandi N. Thomas
Filing Date: October 30, 2003
Title: APPARATUS AND METHOD FOR DIAGNOSIS OF OPTICALLY IDENTIFIABLE OPHTHALMIC CONDITIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Dear Sir:

Pursuant to 37 C.F.R. §1.97, Applicants and their legal representatives hereby make of record the references on the attached PTO/SB/08A/B Form which are known by them and considered warranting disclosure under 37 C.F.R. §1.56.

This statement is not to be interpreted as a representation that the cited publications are material, that an exhaustive search has been conducted, or that no other relevant information exists. Nor shall the citation of any publication herein be construed *per se* as a representation that such publication is prior art. Moreover, Applicants understand that the Examiner will make an independent evaluation of the cited publications.

The Applicant states that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in §.156(c) more than three months prior to the filing of the information disclosure statement.

With respect to the paragraph above, the language "was known to any individual" is intended to mean that any potential materiality of an item of information within the information disclosure statement was not recognized (known) to any known individual as not being reported in a prior information disclosure statement. In this particular circumstance, the person who originally filed the subject utility patent application has since left the law firm.

The circumstances are as follows. Upon receiving a Notice of Allowance from the USPTO for the above referenced patent application, the prosecution history file was reviewed in accordance with our patent allowance check list, and we discovered that comments were made in the specification regarding multiple non-patent references (scientific articles). These non-patent references were not found to be listed within a prior filed Information Disclosure Statement and no copies of these non-patent references could be found in the prosecution history file associated

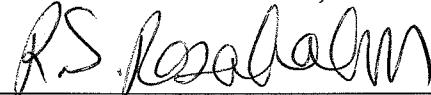
with this patent application. We initiated an inter-library search and loan request to obtain any available copies of the non-patent references, some of which are nearly 20 years old. We were initially unable to obtain copies of these references. After months of searching, we recently obtained copies of the (3) references and are currently able to actually file an Information Disclosure Statement (IDS) including copies of these references for consideration by the USPTO Examiner, and before issuance of the above referenced patent application.

The fee for this submission in the amount of \$180.00 will be paid by credit card at the time of filing. In the event that any additional fees are due, the Examiner is hereby authorized to charge any deficiencies or credit any excess payments to our Deposit Account No. 50-3010.

If there are any questions, please call the undersigned at the telephone number indicated below.

Respectfully submitted,

HISCOCK & BARCLAY, LLP



August 28, 2009

Date

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